

AMENDED IN SENATE JUNE 23, 2003

AMENDED IN SENATE MAY 13, 2003

Senate Constitutional Amendment

No. 11

**Introduced by Senator Alarcon
(Coauthors: Senators Soto and Torlakson)**

February 26, 2003

Senate Constitutional Amendment No. 11—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 1 of Article XIII A thereof, by amending Section 4 of Article XIII A thereof, by amending Section 2 of Article XIII C thereof, by amending Section 3 of Article XIII D thereof, and by amending Section 18 of Article XVI thereof, relating to infrastructure projects.

LEGISLATIVE COUNSEL'S DIGEST

SCA 11, as amended, Alarcon. Local government: ~~special transactions and use~~ taxes and general obligation bonds: infrastructure projects.

(1) The California Constitution requires the approval of $\frac{2}{3}$ of the voters voting in an election to authorize the incurrence of indebtedness by a local agency, except that in the case of a school district, community college district, or county office of education, the issuance of general obligation bonds may be approved by 55% of the voters, or, in the case of repair, construction, or replacement of an unsafe public school building, by a majority of the voters.

This measure would authorize a local government, as defined, that is authorized to incur indebtedness for infrastructure projects to incur, with the approval of a majority of its voters voting on the proposition

in an election, indebtedness in the form of general obligation bonds to fund infrastructure projects, including construction of affordable housing for persons of very low, low, and moderate income;; transportation enhancement activities;; acquisition of land for *agricultural, recreational, or open-space use*; and ~~other park maintenance; and~~ general infrastructure needs.

Under the California Constitution, the maximum amount of any ad valorem tax on real property may not exceed 1% of the full cash value of the property with certain exceptions, including bonded indebtedness incurred by a school district for school facilities that is approved by 55% of the voters in the district voting on the proposition.

This measure would authorize, as an additional exception to the 1% maximum tax rate on real property, bonded indebtedness incurred by a local government for the construction of one or more infrastructure projects, as described above, with the approval of a majority of the votes cast by the voters voting on the proposition.

(2) The California Constitution conditions the imposition of a special tax by a city, county, or special district, other than certain school entities, upon the approval of $\frac{2}{3}$ of the voters of the city, county, or special district voting on that tax.

This measure would authorize a local government, as defined, with the approval of a majority of its voters voting on the proposition, to impose, extend, or increase a ~~special-transactions and use~~ tax, that it is otherwise authorized to impose, extend, or increase, if the tax is imposed exclusively to fund infrastructure projects, including construction of affordable housing for persons of very low, low, and moderate income;; transportation enhancement activities;; acquisition of land for *agricultural, recreational, or open-space use*; and ~~other park maintenance; and~~ general infrastructure needs.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring*, That the
 2 Legislature of the State of California at its 2003–04 Regular
 3 Session commencing on the second day of December 2002,
 4 two-thirds of the membership of each house concurring, hereby
 5 proposes to the people of the State of California that the
 6 Constitution of the State be amended as follows:

7 First—That Section 1 of Article XIII A thereof is amended to
 8 read:

1 SECTION 1. (a) The maximum amount of any ad valorem
2 tax on real property shall not exceed one percent (1%) of the full
3 cash value of the property. The one percent (1%) tax to be collected
4 by the counties and apportioned according to law to the districts
5 within the counties.

6 (b) The limitation provided for in subdivision (a) does not
7 apply to ad valorem taxes or special assessments to pay the interest
8 and redemption charges on any of the following:

9 (1) Indebtedness approved by the voters prior to July 1, 1978.

10 (2) Bonded indebtedness for the acquisition or improvement of
11 real property approved on or after July 1, 1978, by two-thirds of
12 the votes cast by the voters voting on the proposition.

13 (3) Bonded indebtedness incurred by a school district,
14 community college district, or county office of education for the
15 construction, reconstruction, rehabilitation, or replacement of
16 school facilities, including the furnishing and equipping of school
17 facilities, or the acquisition or lease of real property for school
18 facilities, approved by 55 percent of the voters of the district or
19 county, as appropriate, voting on the proposition on or after the
20 effective date of the measure adding this paragraph. This
21 paragraph shall apply only if the proposition approved by the
22 voters and resulting in the bonded indebtedness includes all of the
23 following accountability requirements:

24 (A) A requirement that the proceeds from the sale of the bonds
25 be used only for the purposes specified in this paragraph (3), and
26 not for any other purpose, including teacher and administrator
27 salaries and other school operating expenses.

28 (B) A list of the specific school facilities projects to be funded
29 and certification that the school district board, community college
30 board, or county office of education has evaluated safety, class size
31 reduction, and information technology needs in developing that
32 list.

33 (C) A requirement that the school district board, community
34 college board, or county office of education conduct an annual,
35 independent performance audit to ensure that the funds have been
36 expended only on the specific projects listed.

37 (D) A requirement that the school district board, community
38 college board, or county office of education conduct an annual,
39 independent financial audit of the proceeds from the sale of the

1 bonds until all of those proceeds have been expended for the school
2 facilities projects.

3 (4) Bonded indebtedness incurred by a local government for
4 the construction of one or more infrastructure projects, as specified
5 in subparagraph (C) of paragraph (3) of subdivision (b) (A) of
6 *paragraph (3) of subdivision (c)* of Section 18 of Article XVI, with
7 the approval of a majority of the votes cast by the voters voting on
8 the proposition on or after the effective date of the measure adding
9 this paragraph.

10 (c) Notwithstanding any other provisions of law or of this
11 Constitution, school districts, community college districts, and
12 county offices of education may levy a 55 percent vote ad valorem
13 tax pursuant to subdivision (b).

14 Second—That Section 4 of Article XIII A thereof is amended
15 to read:

16 SEC. 4. Except as provided by subdivision (e) of Section 2
17 of Article XIII C, a city, county, or special district, by a two-thirds
18 vote of its voters voting on the proposition in an election, may
19 impose a special tax within that city, county, or special district,
20 except an ad valorem tax on real property or a transactions tax or
21 sales tax on the sale of real property within that city, county, or
22 special district.

23 Third—That Section 2 of Article XIII C thereof is amended to
24 read:

25 SEC. 2. Notwithstanding any other provision of this
26 Constitution:

27 (a) A tax imposed by any local government is either a general
28 tax or a special tax. A special purpose district or agency, including
29 a school district, has no authority to levy a general tax.

30 (b) A local government may not impose, extend, or increase
31 any general tax unless and until that tax is submitted to the
32 electorate and approved by a majority vote. A general tax is not
33 deemed to have been increased if it is imposed at a rate not higher
34 than the maximum rate so approved. The election required by this
35 subdivision shall be consolidated with a regularly scheduled
36 general election for members of the governing body of the local
37 government, except in cases of emergency declared by a
38 unanimous vote of the governing body.

39 (c) Any general tax imposed, extended, or increased, without
40 voter approval, by any local government on or after January 1,

1 1995, and prior to the effective date of this article, may continue
2 to be imposed only if that general tax is approved by a majority
3 vote of the voters voting in an election on the issue of the
4 imposition, which election is held no later than November 6, 1998,
5 and in compliance with subdivision (b).

6 (d) Except as provided by subdivision (e) ~~of Section 2 of~~
7 ~~Article XIII C~~, a local government may not impose, extend, or
8 increase any special tax unless and until that tax is submitted to the
9 electorate and approved by a two-thirds vote. A special tax is not
10 deemed to have been increased if it is imposed at a rate not higher
11 than the maximum rate so approved.

12 (e) (1) A local government that is otherwise authorized by law
13 to impose, extend, or increase a ~~special tax~~ *transactions and use*
14 *tax within its jurisdiction pursuant to Part 1.6 (commencing with*
15 *Section 7251) of Division 2 of the Revenue and Taxation Code, or*
16 *any successor to that law*, may, with the approval of a majority of
17 its voters voting on the proposition in an election, impose, extend,
18 or increase a ~~special~~ *transactions and use* tax to fund the purposes
19 specified in paragraph (2).

20 (2) The revenues derived in each fiscal year from any ~~special~~
21 tax imposed, extended, or increased pursuant to paragraph (1)
22 shall be expended in accordance with the following:

23 (A) At least ~~25~~ 20 percent of the revenues shall be expended for
24 the construction of affordable housing for persons of very low,
25 low, and moderate income, as defined by Section 50052.5 of the
26 Health and Safety Code, or any successor to that statute. *Not more*
27 *than 30 percent of that allocation may be used to provide*
28 *affordable housing for persons of moderate-income households.*

29 (B) At least ~~25~~ 20 percent of the revenues shall be expended for
30 transportation enhancement activities, as defined in paragraph
31 (35) of subsection (a) of Section 101 of Title 23 of the United
32 States Code, as that section read on January 1, 2002, or any
33 successor to that statute, including transit infrastructure,
34 maintenance and ~~operations, safe routes to school projects,~~
35 ~~incentives for transit-oriented development, bus shelters, traffic~~
36 ~~calming measures, bicycle parking and storage infrastructure,~~
37 ~~operations, and~~ improvements to ensure compliance with laws
38 governing access for persons with disabilities under state law and
39 the federal Americans with Disabilities Act (42 U.S.C. Sec. 12101

1 and following) or any successor to that statute, and streetscape
2 improvements.

3 ~~(C) At least 25 percent of the revenues shall be expended for the~~
4 ~~acquisition of land for open-space use, and open-space land, as~~
5 ~~those terms are defined by Sections 51201 and 65560 of the~~
6 ~~Government Code, respectively, or any successors to those~~
7 ~~statutes.~~

8 ~~(D) Any balance of the revenues shall be expended for general~~
9 ~~infrastructure needs, including, but not limited to, water, sewer,~~
10 ~~utility, brownfield reclamation, transit capital projects, and~~
11 ~~maintenance of local streets and roads.~~

12 ~~(E)–~~

13 *(C) At least 20 percent of the revenues shall be expended for the*
14 *conservation of land dedicated to agricultural, recreational, or*
15 *open-space use, and the maintenance of neighborhood parks,*
16 *exclusive of revenues that may be expended on project-specific*
17 *mitigation.*

18 *(D) At least 20 percent of the revenues shall be used for general*
19 *infrastructure.*

20 *(E) Any balance of the revenues shall be expended for any of the*
21 *above purposes.*

22 *(F) No more than 5 percent of the revenue balance identified*
23 *in subparagraph ~~(D)~~ (E) may be used for administrative costs.*

24 (3) For the purposes of this section:

25 (A) “Infrastructure projects” has the same meaning as “public
26 development facilities” as that term is defined in subdivision (q)
27 of Section 63010 of the Government Code, or any successor to that
28 subdivision.

29 (B) “Special tax” does not include an ad valorem tax on real
30 property or a transaction tax or sales tax on the sale of real property.

31 (C) “Agricultural use,” “open-space use,” and “recreational
32 use” have the same meanings as those terms are defined in
33 subdivisions (b), (n), and (o), respectively, of Section 51201 of the
34 Government Code, or any successor to those provisions.

35 (4) Prior to the election on the proposition described in
36 paragraph (1), the local government shall inform its voters of the
37 specific projects the ~~special~~ transactions and use tax revenues are
38 intended to fund under paragraph (2) for the first two fiscal years
39 in which the tax is to be levied. If the proposition to impose,
40 extend, or increase the ~~special~~ tax is approved, the local

1 government shall thereafter provide appropriate public notice,
2 prior to July 1 of the third fiscal year in which the tax is to be levied,
3 and biennially thereafter, of the specific projects that the ~~special~~
4 ~~tax~~ revenues are intended to fund in the subsequent two-year
5 period, including additional projects or modifications of existing
6 projects.

7 Fourth—That Section 3 of Article XIII D thereof is amended to
8 read:

9 SEC. 3. (a) An agency may not assess a tax, assessment, fee,
10 or charge upon any parcel of property or upon any person as an
11 incident of property ownership except:

12 (1) The ad valorem property tax imposed pursuant to Article
13 XIII and Article XIII A.

14 (2) Any ~~special~~ tax receiving, as applicable, a two-thirds vote
15 pursuant to Section 4 of Article XIII A or Section 2 of Article
16 XIII C, or a majority vote pursuant to subdivision (e) of Section
17 2 of Article XIII C.

18 (3) Assessments as provided by this article.

19 (4) Fees or charges for property-related services as provided by
20 this article.

21 (b) For purposes of this article, fees for the provision of
22 electrical or gas service are not deemed charges or fees imposed
23 as an incident of property ownership.

24 Fifth—That Section 18 of Article XVI thereof is amended to
25 read:

26 SEC. 18. (a) Except as otherwise provided by subdivision
27 (b), a county, city, board of education, or school district may incur
28 any indebtedness or liability in any manner or for any purpose
29 exceeding in any year the income and revenue provided for that
30 year only if both of the following conditions are met:

31 (1) The indebtedness or liability is approved by two-thirds of
32 the voters of the public entity voting at an election to be held for
33 that purpose.

34 (2) Before or at the time of incurring the indebtedness,
35 provision is made for the collection of an annual tax sufficient to
36 pay the interest on the indebtedness as it falls due, and to provide
37 for a sinking fund for the payment of the principal thereof, on or
38 before maturity, which may not exceed 40 years from the time of
39 contracting the indebtedness.

(b) (1) With respect to any public entity enumerated in subdivision (a) that is authorized to incur indebtedness for public school purposes, any proposition to incur indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing, or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the voters of the public entity voting on the proposition in an election.

(2) On or after November 8, 2000, in the case of any school district, community college district, or county office of education, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, shall be adopted upon the approval of 55 percent of the voters of the district or county, as appropriate, voting on the proposition at an election. This subdivision shall apply to a proposition for the incurrence of indebtedness in the form of general obligation bonds for the purposes specified in this subdivision only if the proposition meets all of the accountability requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A.

(c) (1) With respect to any public entity enumerated in subdivision (a) that is authorized to incur indebtedness for infrastructure projects, any proposition to incur indebtedness in the form of general obligation bonds for infrastructure projects shall be adopted upon the approval of a majority of votes cast by the voters voting on the proposition at an election.

(2) The revenues derived from any general obligation bond pursuant to paragraph (1) shall be expended in accordance with the following:

(A) At least ~~25~~ 20 percent of the revenues shall be expended for the construction of affordable housing for persons of very low, low, and moderate income, as defined in Section 50052.5 of the Health and Safety Code, or any successor to that statute. *Not more than 30 percent of that allocation may be used to provide affordable housing for persons of moderate-income households.*

(B) At least ~~25~~ 20 percent of the revenues shall be expended for transportation enhancement activities, as defined in paragraph (35) of subsection (a) of Section 101 of Title 23 of the United

1 States Code, as that section read on January 1, 2002, or any
2 successor to that statute, including transit infrastructure,
3 maintenance and operations, ~~safe routes to school projects,~~
4 ~~incentives for transit-oriented development, bus shelters, traffic~~
5 ~~calming measures, bicycle parking and storage infrastructure,~~
6 improvements to ensure compliance with laws governing access
7 for persons with disabilities under state law and the federal
8 Americans with Disabilities Act (42 U.S.C. Sec. 12101 and
9 following) or any successor to that statute, and streetscape
10 improvements.

11 ~~(C) At least 25 percent of the revenues shall be expended for the~~
12 ~~acquisition of land for open-space use, and open-space land, as~~
13 ~~those terms are defined by Sections 51201 and 65560 of the~~
14 ~~Government Code, respectively, or any successors to those~~
15 ~~statutes.~~

16 ~~(D) Any balance of the revenues shall be expended for general~~
17 ~~infrastructure needs, including, but not limited to, water, sewer,~~
18 ~~utility, brownfield reclamation, transit capital projects, and~~
19 ~~maintenance of local streets and roads.~~

20 ~~(E)–~~

21 *(C) At least 20 percent of the revenues shall be expended for the*
22 *conservation of land dedicated to agricultural, recreational, or*
23 *open-space use, and the maintenance of neighborhood parks,*
24 *exclusive of revenues that may be expended on project-specific*
25 *mitigation.*

26 *(D) At least 20 percent of the revenues shall be used for general*
27 *infrastructure.*

28 *(E) Any balance of the revenues shall be expended for any of the*
29 *above purposes.*

30 *(F) No more than 5 percent of the revenue balance identified*
31 *in subparagraph ~~(D)~~ (E) may be used for administrative costs.*

32 (3) For the purposes of this section:

33 (A) “Infrastructure projects” has the same meaning as “public
34 development facilities” as that term is defined in subdivision (q)
35 of Section 63010 of the Government Code, or any successor to that
36 subdivision.

37 (B) “Local government” has the same meaning as that term is
38 defined in subdivision (b) of Section 1 of Article XIII C.

39 (C) “Agricultural use,” “open-space use,” and “recreational
40 use” have the same meanings as those terms are defined in

1 *subdivisions (b), (n), and (o), respectively, of Section 51201 of the*
2 *Government Code, or any successor to those provisions.*

3 (4) Prior to the election on the bond proposition described in
4 paragraph (1), the local government shall inform its voters of the
5 specific projects that the general obligation bond proceeds will
6 fund under paragraph (2).

7 (d) When two or more propositions for incurring any
8 indebtedness or liability are submitted at the same election, the
9 votes cast for and against each proposition shall be counted
10 separately, and when two-thirds or a majority or 55 percent of the
11 voters, as the case may be, voting on any one of those propositions,
12 vote in favor thereof, the proposition shall be deemed adopted.

